

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)	ID. No. 1508017483
)	In and for Kent County
v.)	
)	RK15-09-0051-01
ADARYLLE L. LANGSTON,)	Sex Child Abuse (F)
)	
Defendant.)	

COMMISSIONER'S REPORT AND RECOMMENDATION

**Upon Defendant's Motion for Postconviction Relief
Pursuant to Superior Court Criminal Rule 61**

Denise L. Weeks-Tappan, Deputy Attorney General, Department of Justice, for the State of Delaware.

Adarylle L. Langston, *Pro se*.

FREUD, Commissioner
October 25, 2017

The defendant, Adarylle L. Langston ("Langston"), pled guilty at his Final Case Review on December 2, 2015 to one count of Sexual Abuse of a Child by a Person in a Position of Trust, Authority, or Supervision in the First Degree, 11 *Del. C.* § 778. He was also facing one count of Endangering the Welfare of a Child, and one count of Rape in the Fourth Degree. In exchange for the plea *nolle prosequis* were entered by the State on the two additional charges. The parties, as a part of the Plea Agreement, recommended a sentence of twenty-five years incarceration

suspended after five years, two of which were minimum mandatory, for probation. The Court agreed with the recommendation and sentenced Langston accordingly. Langston did not appeal his conviction or sentence to the Delaware Supreme Court. Instead he filed the pending motion for postconviction relief pursuant to Superior Court Criminal Rule 61 on November 14, 2016.

FACTS

The charges involved Langston digitally penetrating the 17 year old daughter of his girlfriend and having sexual intercourse with the victim as well during the evening of August 21, 2015 while he was acting as a guardian and caretaker the victim due to her mother having health issues. Langston gave the victim marijuana to smoke. She then went to sleep. While the victim was asleep Langston started to have intercourse with the victim. She awoke but was scared and pretended to be asleep. She told her mother what had happened the next day. The two then went to the Emergency Room at Kent General Hospital where they gave a detailed statement to the Delaware State Police in which she identified Langston, her mother's long time boyfriend, as her accoster.¹

LANGSTON'S CONTENTIONS

Langston claims his attorney was ineffective because she did not challenge the indictment and allowed him to plead to a faulty indictment.

No supporting memorandum was filed.

¹ Affidavit of Probable Cause, Sgt. Lloyd.

DISCUSSION

Under Delaware law, this Court must first determine whether Langston has met the procedural requirements of Superior Court Criminal Rule 61(i) before it may consider the merits of his postconviction relief claim.² This is Langston's first motion for postconviction relief, and it was filed within one year of his conviction becoming final. Therefore, the requirements of Rule 61(i)(1) - requiring filing within one year and (2) - requiring that all grounds for relief be presented in initial Rule 61 motion, are met. Langston's claim was not raised at the plea, sentencing, or on direct appeal. Therefore, it is barred by Rule 61(i)(3), absent a demonstration of cause for the default and prejudice. Langston's claim is based on ineffective assistance of counsel; therefore, he has alleged cause for his failure to have raised it earlier.

At this point, Rule 61(i)(3) does not bar relief as to Langston's grounds for relief, provided he demonstrates that his counsel was ineffective and that he was prejudiced by counsel's actions. To prevail on his claim of ineffective assistance of counsel, Langston must meet the two-prong test of *Strickland v. Washington*.³ In the context of a guilty plea challenge, *Strickland* requires a defendant show: (1) that counsel's representation fell below an objective standard of reasonableness; and (2) that counsel's actions were prejudicial to him in that there is a reasonable probability that, but for counsel's error, he would not have pled guilty and would have insisted

² *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991).

³ 466 U.S. 668 (1984).

on going to trial and that the result of a trial would have been his acquittal.⁴ The failure to establish that a defendant would not have pled guilty and would have proceeded to trial is sufficient cause for denial of relief.⁵ In addition, Delaware courts have consistently held that in setting forth a claim of ineffective assistance of counsel, a defendant must make concrete allegations of actual prejudice and substantiate them or risk summary dismissal.⁶ When examining the representation of counsel pursuant to the first prong of the *Strickland* test, there is a strong presumption that counsel's conduct was professionally reasonable.⁷ This standard is highly demanding.⁸ *Strickland* mandates that, when viewing counsel's representation, this Court must endeavor to "eliminate the distorting effects of hindsight."⁹

Following a complete review of the record in this matter, it is abundantly clear that Langston has failed to allege any facts sufficient to substantiate his claim that his attorney was ineffective. I find trial counsel's affidavit, in conjunction with the record, more credible than Langston's self-serving claims that his counsel's

⁴ *Id.* at 687.

⁵ *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997)(citing *Albury v. State*, 551 A.2d 53, 60 (Del. 1988))(citations omitted).

⁶ See e.g., *Outten v. State*, 720 A.2d 547, 557 (Del. 1998) (citing *Boughner v. State*, 1995 WL 466465 at *1 (Del. Supr.)).

⁷ *Albury*, 551 A.2d at 59 (citing *Strickland*, 466 U.S. at 689).

⁸ *Flamer v. State*, 585 A.2d 736, 754 (Del. 1990)(quoting *Kimmelman v. Morrison*, 477 U.S. 365, 383 (1986)).

⁹ *Strickland*, 466 U.S. at 689.

representation was ineffective. Langston's counsel clearly denies the allegations. The crux of Langston's argument is that the indictment was faulty because it stated that the victim was sixteen years old when in fact she was seventeen years old. Langston has misread the indictment as it clearly states that the victim was seventeen. It reads as follows:

ADARYLLE L. LANGSTON, on or about the 21st day of August, 2015, in the County of Kent, State of Delaware, did intentionally engage in sexual intercourse with Arianna Vanderpool, a child who has reached that child's own 16th birthday but has not yet reached that child's 18th birthday when the defendant is at least 4 years older than the child and the defendant stands in a position of trust, authority, or supervision over the child or is an invitee or designee of a person who stands in a position of trust, authority, or supervision over the child.

Langston's argument is obviously meritless.

Langston was facing substantial incarceration time had he been convicted, and the sentence and plea were reasonable under all the circumstances, especially in light of the evidence against him. Prior to the entry of the plea, Langston and his attorney discussed the case. The plea bargain was clearly advantageous to Langston. Counsel's representation was certainly well within the range required by *Strickland*. Additionally, when Langston entered his guilty plea, he stated he was satisfied with defense counsel's performance. He is bound by his statement unless he presents clear

and convincing evidence to the contrary.¹⁰ Consequently, Langston has failed to establish that his counsel's representation was ineffective under the *Strickland* test.

Even assuming, *arguendo*, that counsel's representation of Langston was somehow deficient, Langston must satisfy the second prong of the *Strickland* test, prejudice. In setting forth a claim of ineffective assistance of counsel, a defendant must make concrete allegations of actual prejudice and substantiate them or risk dismissal.¹¹ In an attempt to show prejudice, Langston simply asserts that his counsel was ineffective. His statements are insufficient to establish prejudice, particularly in light of the evidence against him. Therefore, I find Langston's grounds for relief are meritless.

To the extent that Langston alleges his plea was involuntary, the record contradicts such an allegation. When addressing the question of whether a plea was constitutionally knowing and voluntary, the Court looks to a plea colloquy to determine if the waiver of constitutional rights was knowing and voluntary.¹² At the guilty-plea hearing, the Court asked Langston whether he understood the nature of the charges, the consequences of his pleading guilty, and whether he was voluntarily pleading guilty. The Court asked Langston if he understood he would waive his constitutional rights if he pled guilty; if he understood each of the constitutional

¹⁰ *Mapp v. State*, 1994 WL 91264, at *2 (Del.Supr.)(citing *Sullivan v. State*, 636 A.2d 931, 937-938 (Del. 1994)).

¹¹ *Larson v. State*, 1995 WL 389718, at *2 (Del. Supr.)(citing *Younger*, 580 A.2d 552, 556 (Del. 1990)).

¹² *Godinez v. Moran*, 509 U.S. 389, 400 (1993).

rights listed on the Truth-in-Sentencing Guilty Plea Form (“Guilty Plea Form”); and whether he gave truthful answers to all the questions on the form. The Court asked Langston if he had discussed the guilty plea and its consequences fully with his attorney. The Court asked Langston if he was entering into the plea as he was guilty of the charges. The Court also asked Langston if he was satisfied with this counsel’s representation. The Court also asked Langston if he was current with all his medications and if he felt competent to enter the plea. Langston answered each of these questions affirmatively.¹³ I find counsel’s representations far more credible than Langston’s self-serving, vague allegations.

Furthermore, prior to entering his guilty plea, Langston signed a Guilty Plea Form and Plea Agreement in his own handwriting. Langston’s signatures on the forms indicate that he understood the constitutional rights he was relinquishing by pleading guilty and that he freely and voluntarily decided to plead guilty to the charges listed in the Plea Agreement. Langston is bound by the statements he made on the signed Guilty Plea Form, unless he proves otherwise by clear and convincing evidence.¹⁴ I confidently find that Langston entered his guilty plea knowingly and voluntarily and that Langston’s ground for relief is completely meritless.

¹³ *State v. Langston*, Del. Super., ID No. 1508017483, Tr. at 3 to 10.

¹⁴ *Sommerville* 703 A.2d at 632.

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CONCLUSION

I find that Langston's counsel represented him in a competent and effective manner and that Langston has failed to demonstrate any prejudice stemming from the representation. I also find that Langston's guilty plea was entered knowingly and voluntarily. I recommend that the Court *deny* Langston's motion for postconviction relief as procedurally barred and completely meritless.

/s/ Andrea M. Freud

Commissioner

AMF/dsc